

Policy Violations:

- 1) Policy 340.3.4(c)
 - a. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- 2) Policy 340.3.4(f)
 - a. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department, or that would tend to discredit any employee thereof.
- 3) Policy 340.3.4(g)
 - a. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of the Department or employees thereof.
- 4) Policy 1058.5(a)
 - a. To meet the department's safety, performance and public-trust needs, the following are prohibited: (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Columbia Police Department or its employees.

Statements made by the Chief of Police that violate Department Policy and deteriorate morale:

1. Gary Nolan advised Chief Burton that "[officers] are afraid you will fire them even if they speak out."¹ Chief Burton responds, "I don't have that power"² and "it wasn't against the law, or against the rules, even of the city, to give an opinion."³
 - a. Under the law and department policies, officers could be disciplined for speaking out.
 - b. Columbia Police Department Policy 1058.4 prohibits "speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the Columbia Police Department or its employees."⁴ Furthermore, officers are aware that violation of policy could result in termination of employment by the Chief of Police.
 - c. The Chief's incompetence regarding his own policy is evident of his inability to lead this department.
2. When confronted with the "toxicity"⁵ of the supervisors, Chief Burton describes members of his Command Staff as "subversive."⁶

¹ Appendix A, Page 3, Line 23

² Appendix A, Page 4, Line 1

³ Appendix A, Page 4, Lines 8-9

⁴ Appendix E

⁵ Appendix A, Page 4, Lines 10-11

⁶ Appendix A, Page 4, Lines 15-16, 22-23

- a. CPOA does not support Chief Burton calling members of the leadership staff “subversive.” We feel the members of the Command Staff are dedicated to fulfilling the mission and goals of the police department.
 - i. The Chief admits to his inability to prove his allegations of “subversive” officers. CPOA maintains that there is no proof because these allegations are false and meritless.
 - b. Chief Burton further states “My approach to people that were being subversive or not being supportive was to ignore it and try to get them into the fold.”⁷ Chief Burton also blames his Command Staff for making officers “fearful of the person at the top.”⁸
 - i. By the Chief’s own admission, any perceived problem was ignored. How can the Chief be an effective leader when his approach to problems is to ignore them?
 - ii. In addition, Chief Burton is the top leader of the Columbia Police Department and therefore is solely responsible for the creation of fear among the lower level officers within the department through his actions, statements, and implications.
3. Communication issues are brought to Chief Burton’s attention, as they were in the 2012 Review. When asked why communication was inconsistent, Chief Burton quickly passes blame to his Command Staff level officers. Chief Burton maintains his own message is “clear and concise.”⁹
 - a. CPOA has brought concerns regarding communications *directly* to the Chief through previous meetings. These concerns were ignored by the Chief.
 - b. As the leader of the department, essentially the manager, Chief Burton is solely responsible for communication within the department. It is inappropriate for Chief Burton to blame his subordinates for the problems occurring under his command.
 - c. With only nine members of the Command Staff to supervise, Chief Burton should be able to ensure his philosophies and goals are being implemented in an efficient manner.
4. Chief Burton makes the statement “I think the first person responsible for your morale is you.”¹⁰
 - a. This statement directly contradicts statements made by Chief Burton at the press conference conducted immediately after the release of the 2012 Organizational Review.
 - i. During this press conference, Chief Burton stated morale starts at the top and that is where the problem would be fixed.
 - b. Morale at the Columbia Police Department is low due to Chief Burton’s actions, statements, and treatment of officers.

⁷ Appendix A, Page 4, Lines 15-17

⁸ Appendix A, Page 5, Lines 7-8

⁹ Appendix A, Page 6, Line 3

¹⁰ Appendix A, Page 6, Lines 20-21

- i. CPOA members recognize the inconsistencies, contradictions, and negative statements made about the Columbia Police Department by Chief Burton on numerous occasions. It is also recognized that the negativity extends to officers employed at the police department through name calling and negative connotations made by Chief Burton to members of the public and the media.
 - ii. CPOA members also recognize that Chief Burton separates himself from the department when speaking to the public. In these instances, Chief Burton is often criticizing the officers and the department as a whole.
- 5. Chief Burton and Gary Nolan discuss the high speed pursuit policy and emergency driving in the interview. Chief Burton states that 126 miles per hour on Broadway was “not unusual.”¹¹ Chief Burton also indicated that officers driving at high rates of speed were simply en route to calls and that officers not even dispatched to calls were driving at excessive speeds.¹²
 - a. CPOA feels the information provided by Chief Burton is deceptive and knowingly false.
 - b. There was one occurrence where an officer drove 126 mph on Broadway to assist an officer fighting for his life. CPOA feels that *one* occurrence of 126 mph on Broadway does not justify calling it “not unusual.”
 - i. This isolated incident occurred in early morning hours when civilian traffic was minimal to non-existent. An officer was being strangled by a suspect attempting to avoid apprehension. The circumstances warranted an immediate and emergency response from other officers to prevent serious physical injury or loss of life to that officer.
 - c. Furthermore, in the instances of high speed driving, officers were not en route to calls, notwithstanding the Chief’s false statements. Each instance of high speed driving addressed by Chief Burton was in response to an emergency situation in which officers were responding for the preservation of life of the public or an officer.
 - d. Chief Burton also stated that responding to an officer needing emergency assistance would be a valid reason for driving at excessive speeds.¹³
 - i. Yet, the instance of an officer traveling 126 mph down Broadway was in response to an officer needing emergency assistance, and the officer was disciplined.
- 6. Further in the conversation, Chief Burton states “I have never disciplined anyone for responding to help and officer”¹⁴ and calls the allegation of doing so a “lie.”¹⁵
 - a. CPOA has evidence¹⁶ of disciplinary actions brought against officers for responding to assist another officer in need of emergency assistance.

¹¹ Appendix A, Page 8, Lines 21-22

¹² Appendix A, Page 9, Lines 1, 9-10

¹³ Appendix A, Page 9, Lines 17-19

¹⁴ Appendix A, Page 10, Lines 6-7

¹⁵ Appendix A, Page 10, Line 3

¹⁶ Appendix H; Appendix O

- b. This is a prominent example of why fear exists among officers in the department. Officers hear Chief Burton make such false statements and then see the actions that are contradicted by the statements.
 - i. The 2012 Organizational Review also found that the “supervisory climate is inconsistent and threatening for officers and supervisors.”
 - c. Officers have expressed reluctance in using their emergency equipment in justified situations for the fear that disciplinary actions will result, regardless of the circumstances.
 - i. This fear is validated by the 2012 Organizational Review which found that officers’ “fear that this set of conditions will lead to situations that will result in injury or death to themselves or a member of the public through over- or under-reaction.”¹⁷
- 7. Chief Burton discusses high speed vehicle pursuits and states “[officers] cannot act based on what we don’t know”¹⁸. Chief Burton goes on to give an example of a motorcycle pursuit that occurred in an agency where we was once employed.¹⁹
 - a. In the example provided by Chief Burton, he contradicts his initial statement. After stating an officer cannot act on what is unknown to officer, he discusses the reason why the individual had fled from police: the driver’s father threatened to take away his motorcycle if he got another ticket. The reason for fleeing, in that case, was something that could not have been known by officers at the time, yet Chief Burton implies officers should have known.
 - b. While CPOA is not in disagreement with the current pursuit policy, we feel the Chief needs to be aware of, and take into consideration, Supreme Court decisions that dictate actions of law enforcement officers involved in a vehicle pursuit. *Sykes v. United States*²⁰ addresses vehicle pursuits by law enforcement and states individuals that flee from law enforcement are considered violent. *Sykes* states “It is well known that when offenders use motor vehicles as their means of escape they create serious potential risks of physical injury to others. Flight from a law enforcement officer invites, even demands, pursuit”.
- 8. Gary Nolan, reading from the new policy, questions Chief Burton on equipment that is mandated by policy to be in each police patrol vehicle. Both Chief Burton and Sergeant Jill Schlude state that items list in the policy are, in fact, in each vehicle.²¹
 - a. This statement is untrue. Columbia Police Department Policy 704²² addresses vehicle maintenance and provides of list of required equipment. CPOA has yet to find a police patrol vehicle that is in compliance with the enacted policy. Both Chief Burton and Sergeant J. Schlude provided false information that the Columbia Police Department was in compliance with its own policy.

¹⁷ Appendix C, Page 2, Finding 2

¹⁸ Appendix A, Page 12, Lines 6-7

¹⁹ Appendix A, Page 12, Lines 13-22

²⁰ Appendix O

²¹ Appendix A, Pages 14-15, Lines 9-23, 1-23

²² Appendix E

- b. In a March 25th, 2012, article in the Columbia Tribune, Sergeant J. Schlude states “There are things in the manual that we are well aware we don’t have the capability to do.” CPOA is concerned that Chief Burton enacted policy without having the capabilities to follow that policy.
 - c. Sergeant J. Schlude also states “there are more important policies for [officers] to concern themselves with than a helicopter they know the department doesn’t have.” With the release of the Lexipol policy, officers were advised they were responsible for knowing the entire policy and becoming compliant with the policy. CPOA feels that any policy enacted, which affects its members, should be considered of equal importance. The statements made by Sergeant Schlude cloud and confuse the policy manual and the understanding of officers as to which policies are to be followed. Officers are also concerned that they can be disciplined for policy violation, regardless of statements made by Chief Burton.
 - d. The enactment of the new policy, which cannot be conformed to, has been a prominent concern of CPOA members. When confronted with this issue, Chief Burton blatantly lies to the general public. This exemplifies Chief Burton not taking responsibility for the department and not taking officer concerns seriously. By lying about the policy manual of the police department, Chief Burton confuses the public and prevents them from being fully educated on the concerns raised by officers and the 2012 Review.
9. Chief Burton and Gary Nolan discuss training at the Columbia Police Department. Chief Burton indicates that he has not scaled back training and that officers are not putting in for training schools.
- a. Prior to Chief Burton’s arrival at the Columbia Police Department, department mandated training has been scaled back drastically. In 2011, officers received 24 hours of in-service training. Prior to Chief Burton’s arrival, officers were receiving roughly 80 hours of department training each year.
 - b. Also, the department has denied training requests. As an example, the Columbia Police Department has a Forensic Evidence Team. A majority of the officers designated as a Forensic Evidence Technicians have not received training in this crucial area. CPOA feels that regardless of where the training is occurring, officers need to be extensively trained in the areas of expertise they are held responsible for.
 - c. Another example is emergency vehicle operations. Chief Burton expressed his concerns and ideas of how officers should be driving. The last department emergency vehicle operations training occurred in 2006, before a majority of the currently employed officers were hired. Since then, the Columbia Police Department was donated a driving simulator which most officers have not been allowed to utilize or even seen. The driving simulator, as well as the department’s firearms simulator, is mainly utilized for officers being required to go through remedial training as a result of disciplinary actions.
 - d. Due to the training standards set in place by Chief Burton, the Columbia Police Department is no longer compliant with training standards as suggested by the United States Supreme Court. Officers have repeatedly expressed

concerns over the lack of training provided by the department and desires to have more department sponsored training.

10. The 2012 Organizational Review indicated the need for a complete and comprehensive policy manual.²³ Chief Burton indicated this problem was corrected with the release of the Columbia Police Department Policy Manual through the company Lexipol.²⁴
 - a. CPOA is pleased to see the steps taken for the police department to have a complete policy manual, but feel that implementation has led to further problems that could have been avoided with proper oversight.
 - b. On February 13th, 2012, officers were advised the new policy was completed and provided with an electronic copy. It was determined that the electronic copy was not accessible by officers at that time. On February 23rd, 2012, officers were provided with a working, electronic copy of the policy. Officers were instructed that on March 1st, 2012, the new policy would be in full effect, giving officers only seven days to learn over 500 pages worth of policy. On March 1st, all past policy and procedure were no longer in place.
 - c. Officers were also advised that any issue not addressed in policy would be addressed in procedures. To date, a majority of the issues not addressed in the policy manual have not been provided to officers in the form of procedure.
 - i. In addition, the few procedures that have been set in place are neither in written form nor are they made available to officers. Yet officers continue to be held accountable for these “unwritten procedures.”
 - ii. The 2012 Organizational Review found that there is “a common belief that officers may not receive due process.”²⁵ How can officers be confident in the IA system and know they are receiving due process when they don’t even know what the process is?
 - d. With the quick implementation of the new policy manual, the Columbia Police Department is unable to meet the standards listed in their own policy. Officers are forced to violate policy every day due to the fact that the policy was not sufficiently examined and evaluated prior to its implementation.
 - e. The new policy manual is another example that supports the 2012 Organizational Review’s finding that “[m]anagement decisions are viewed as being made without adequate preparation for implementation and as inconsistent.”²⁶
11. When asked how much time officers were given to learn the new policy, Chief Burton did not provide an answer²⁷. Chief Burton also indicated that he provided training on policy for officers to understand the philosophies behind them²⁸.

²³ Appendix C, Recommendation IV

²⁴ Appendix A, Page 7, Lines 3-8

²⁵ Appendix C, Page 4, Finding 12

²⁶ Appendix C, Page 2, Finding 3

²⁷ Appendix A, Page 7, Lines 10-12

²⁸ Appendix A, Page 7 Line 23; Page 8, Lines 1-3

- a. The training provided by Chief Burton was conducted in 2011, prior to the release of the Lexipol policy manual and was conducted over policy no longer in place at the Columbia Police Department as of March 1st.
 - b. Officers have not received training on the new policy manual. Many members of CPOA have expressed concerns over this fact and also expressed desire to have training provided as some of the policy is significantly different than past policies in place.
12. Chief Burton is presented with the information that officers are “afraid”²⁹ of him. The response of the Chief Burton is a chuckle.
- a. When addressed with a statement regarding morale, a serious problem mention in the 2012 Review, we feel laughing is inappropriate and indicative of the attitude and leadership harbored by Chief Burton. Chief Burton also addresses this later in the interview by stating “I actually find that is just simply ludicrous”³⁰. As the head of a city department and the leader of the police force, we feel that any personnel concerns brought to the chief’s attention should be addressed, at the very least, with seriousness.
13. Gary Nolan later addresses the termination of former Officer Rob Sanders. In both the Gary Nolan and Tom Bradley interview, Chief Burton repeatedly refers to the use of force incident against Kenneth Baker as an “assault”³¹ and addresses various issues involving the Internal Affairs investigation and pending criminal investigation.
- a. While CPOA is not addressing the Rob Sanders incident as a whole, we have recognized instances of misconduct by Chief Burton in relation to the ongoing issue.
 - b. At this point, Rob Sanders has not been convicted of any criminal law violation or even charged with such. We feel it is inappropriate for Chief Burton to make such statements related to Rob Sanders, considering no action has been taken by any Prosecutor’s Office in relation to the alleged crime that Chief Burton claims has occurred. The court system is in place to determine whether or not a person is guilty of a criminal law violation. As the Chief of Police, Chief Burton should not be making statements of guilt in relation to any criminal act until the issue is resolved through the proper channels.
 - c. Furthermore, in a 2010 policy email³² from Sergeant Jill Schlude, then Weineke, at the direction of Chief Burton, officers were instructed to generate a report number in any event where a crime was alleged to have occurred while in contact with members of the public.
 - i. Yet, in a February 2012 court proceeding, it was learned that a supervisor was tasked with gathering information to provide to a State Prosecutor’s Office regarding the possible filing of criminal charges against Rob Sanders. During this proceeding, the individual states he was instructed not to generate a report number or document any of his

²⁹ Appendix A, Page 3, Line 21

³⁰ Appendix A, Page 23, Line 20

³¹ Appendix A, Page 16, Lines 22-23; Appendix B, Page 2, Lines 5, 7-8

³² Appendix P

work in relation to providing information to the prosecutor³³. CPOA feels this creates a situation of questionable motives in relation to the Rob Sanders incident considering the email sent to all police officers providing a direct order from Chief Burton.

14. In the interview with Tom Bradley, Chief Burton admits after seeing the video of the holding cell incident, he desired to immediately terminate Officer Sanders³⁴, violating any due process rights guaranteed to Officer Sanders.
- a. These statements have further added to the fear of Chief Burton by officers.
 - b. As police officers, we take an oath to uphold the Constitution of the United States, including the protection of due process rights of the accused. Chief Burton repeatedly advises to refer to the video documentation as containing all the information needed to see that an unjustified use of force occurred.³⁵ Chief Burton has ignored federal court cases that dictate and outline use of force by police officers.
 - i. The Supreme Court, in *Graham v. Connor*³⁶ has stated that “objective reasonableness” is the standard utilized in use of force cases. The court recognizes the standard used is a “reasonable officer” at the scene, as opposed to how the public will view the incident as Chief Burton claims.
 - ii. Chief Burton never addresses the “totality of the circumstances” required to be considered by officers as direction and application of use of force, and, in fact, directs the public to ignore the totality of the circumstances. Chief Burton states “you have to believe what you see with your own eyes.”³⁷
 - iii. As police officers, we are required to consider many different factors in a split second when applying any level of force to an individual. Throughout the Rob Sanders incident, Chief Burton has failed to acknowledge all the factors surrounding the use of force incident and encourages others to do the same. This is misleading and deceptive to the general public.
 - c. Referring to the use of restraint in holding cells, Chief Burton also states that the actions of Rob Sanders were in “unwritten”³⁸ policy and “actually never been in the manual.”³⁹ Attached are the Standard Operating Guideline 304.22, Restraint and Control Devices,⁴⁰ which was in place at the time of the incident.
 - i. The policy, which was in fact written and attached as Appendix F, dictated the actions of officers’ interactions with prisoners in holding cells and the use of restraints. Chief Burton only presented a small

³³ Appendix G, Page 118, Lines 18-24

³⁴ Appendix B, Page 2, Lines 12-13

³⁵ Appendix A, Page 19, Lines 12-15

³⁶ Appendix L

³⁷ Appendix A, Page 19, Lines 14-15

³⁸ Appendix A, Page 19, Line 3

³⁹ Appendix A, Page 17, Line 14

⁴⁰ Appendix F

fraction of the facts and circumstances surrounding the entire incident and was misleading on others, something the Supreme Court has stated is not how to evaluate such situations.

1. As is expected of Columbia Police officers, CPOA expects Chief Burton to present all facts true and accurately to the general public.
2. Furthermore, CPOA expects the Chief to understand and know the policies of his own department, especially those extensively discussed in the Sanders' IA Report that the Chief is supposed to have read.

15. When discussing statements made under *Garrity* protection in regards to criminal prosecution, Chief Burton states “we can actually present [statements made under *Garrity*]. We can give it to the prosecutor”⁴¹. The statements made by Chief Burton are incorrect.

- a. *Garrity v. New Jersey*⁴² advises that statements made under *Garrity* protection cannot be used against an officer in criminal prosecution. The court system, in *State v. Jackson*⁴³, has further stated that providing *Garrity* protected statements to prosecutors constitutes “use”, in and of itself.
- b. In the February 2012 court proceeding, Columbia Police Department Policy was read that states “[a]ll complaints involving allegations of criminal conduct shall be investigated as criminal law violations before any administrative investigation is begun by Professional Standards Division/Internal Affairs.”⁴⁴
- c. Yet in the same court proceeding, Sergeant J. Schlude admits that “the administrative investigation conducted by internal affairs into the incident also serves a dual purpose as a criminal investigation into the assault on Mr. Baker”⁴⁵. This shows a blatant disregard for both policy and the law by Chief Burton.

16. CPOA has also been presented with evidence that Chief Burton has violated City of Columbia Municipal Ordinance.

- a. City of Columbia Municipal Ordinance 21-51, Section C⁴⁶ states: “Unless the complaint has been withdrawn or the police officer is no longer employed by the city, the complaint investigation process shall conclude with a decision by the police chief that the complaint is unfounded (acts complained of did not occur or were misconstrued), the complaint is not sustained (insufficient facts established to either prove or disprove the acts complained of), the complaint is sustained (sufficient facts established to prove misconduct) or the officer is exonerated (acts complained of occurred but were justified, lawful and proper). If the complaint is sustained, the police chief shall take appropriate disciplinary action.”

⁴¹ Appendix A, Page 21, Lines 8-9

⁴² Appendix K

⁴³ Appendix N

⁴⁴ Appendix G, Page 62, Lines 20-23

⁴⁵ Appendix G, Page 22, Lines 2-9

⁴⁶ Appendix I

- i. Chief Burton has authorized the continuation of internal affairs investigations, including a conclusion with decision on at least two individuals who were no longer employed with the Columbia Police Department at the time of the investigations.⁴⁷
 - ii. CPOA feels this is inappropriate as the administrative investigations were directed at, now, citizens and not police officers. Also, city and department resources are wasted on continued investigations on individuals no longer employed by the city. We feel Chief Burton should be held responsible for the blatant violation of City of Columbia Ordinance, as members of the general public are held responsible for violations they commit.
17. Chief Burton calls the Organizational Review of the Columbia Police Department “not entirely accurate”⁴⁸. Chief Burton states “a lot of [recommendations], in fact 8, and depending how you look at it maybe even 9 of those recommendations are already in the process of being implemented”⁴⁹.
- a. CPOA believes regardless of what is being implemented, the review of the police department indicated the findings of the 2006 Organizational Review have gotten worse. This indicates the continued failure of implementations by Chief Burton, if they are indeed occurring. Chief Burton had the 2006 Review available to him upon his arrival as head of the Columbia Police Department. Despite this fact, conditions at the department have not improved.
18. Chief Burton states the promotional process upon his arrival at the Columbia Police Department “reeked of the Brethren law method”⁵⁰. Chief Burton goes on to state the promotional process for Lieutenants and Captains consists of test and interview scores. The 2012 Organizational Review found officers suspicious of the current promotional process⁵¹.
- a. CPOA is also suspicious of the nature of the selection of command staff positions. We recognize that experience, history with the department, and merit are not currently taken into consideration.
19. Chief Burton claims that “salary enough is obviously a point of contention”⁵², implying that officers believe they are not paid enough for their positions.
- a. CPOA has never raised concerns regarding compensation and salary. CPOA, along with the 2012 Review⁵³, have addressed the need to correct salary compression issues that are occurring city-wide. The City of Columbia has also acknowledged the need to correct the compression issue. CPOA recognizes salary compression issues have been corrected at the Columbia Police Department for positions above Sergeant.

⁴⁷ Appendix J

⁴⁸ Appendix A, Page 1, Line 19

⁴⁹ Appendix A, Page 1, Lines 19-21

⁵⁰ Appendix A, Page 3, Line 1

⁵¹ Appendix C, Finding #1

⁵² Appendix A, Page 6, Line 19

⁵³ Appendix C, Recommendation VII